

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

Benjamin Allen Switek, PROSE,

Plaintiff,

F I L E D  
NOV 28 2022

Case No.: 21-12184

✓

CLERK'S OFFICE  
DETROIT

Hon. Matthew F. Leitman  
Mag. Judge Curtis Ivy, Jr.

MIDLAND COUNTY, et al,  
Defendants.

BENJAMIN ALLEN SWITEK  
PROSE, PLAINTIFF  
CHIROPPEWA CORRECTIONAL FACILITY  
4269 West M-80  
Kincheloe, Mich., 49784

TIMOTHY S. FERRAND (P39583)  
Cummings, Mc. Clorey, Davis & Acho, PLC.  
Attorney for Defendants  
19176 Hall Road, Suit 220  
Clinton Township, Mich., 48038  
(586) 228-5600  
[tferrand@cmda-law.com](mailto:tferrand@cmda-law.com)

PLAINTIFF'S MOTION TO COMPEL DEFENDANTS' TO PROVIDE ALL  
ANSWERS TO THEIR FIRST INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS

PROSE Plaintiff, Benjamin Allen Switek, by and through his vested  
Constitutional rights of these United States, states as follows for his  
Motion to Compel All Answers to their First Interrogatories and  
Requests for Production of Documents.

Plaintiff rely's on the law and facts in the attached brief in  
Support of this motion.

Currence in this motion has been sought because the movant  
is an incarcerated prisoner proceeding pro se.

WHEREFORE, for all these reasons and for those in the  
attached brief, Plaintiff respectfully request this Honorable

Court enter an Order requiring Defendants to provide all answers to their First Interrogatories and Requests for production of Documents, ALL of them they have received.

Respectfully Submitted,

Benjamin A. Switek, PAOSE,  
(without Prejudice V.C.C. 1308/1-207)

BY: BENJAMIN A. SWITEK

Benjamin A. Switek

4269 West M-80

Kincheloe, Mich., 49784

Dated: November 18, 2022

"ALL RIGHTS RESERVED WITHOUT PREJUDICE"

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

Benjamin Allen Switek, PROSE,  
Plaintiff,

V.

MIDLAND COUNTY, et al,  
Defendants.

Case No.: 21-12184

Hon. Matthew F. Leitman  
Mag. Judge Curtis Ivy, Jr.

BENJAMIN ALLEN SWITEK  
PROSE PLAINTIFF  
CHIPPENWA CORRECTIONAL FACILITY  
4269 West M-80  
Kincheloe, MICH., 49784

TIMOTHY S. FERRAND (P39583)  
Cummings, Mc. Clorey, Davis & Acho, PLC  
Attorney for Defendants  
19176 Hall Road, Suite 820  
Clinton Township, MICH., 48038  
(586) 228-5600  
[t.ferrand@cmda-law.com](mailto:t.ferrand@cmda-law.com)

BRIEF REGARDING PLAINTIFF'S MOTION TO COMPEL DEFENDANTS'  
TO PROVIDE ALL ANSWERS TO THEIR FIRST INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

STATEMENT OF RELEVANT FACTS

PROSE Plaintiff Benjamin Allen Switck filed a lawsuit against Midland County, Isabella County, Chippewa County, and the Michigan Parole Board. Due to violations of the Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitution. Mr. Switck asserts that he suffers with violated liberty interests. While incarcerated, the jail "kept/destroyed" a civil action that he tried to file and destroyed his mail, and asserts violations of the "COVID-19 Pandemic/Delta Variant". Finally, Mr. Switck asserts violations of his Affidavit Reservation of Rights V.C.C. 1-308 (formally 1-207).

Defendants served plaintiff with interrogatories and requests for production of documents, and Defendants received responses, the responses are adequate. (Ex. A, B, C, proof of evidence). Plaintiff had placed documents "in [his] civil docket" and/or already answered the questions three time's. Defendants say they have received no previous responses to this discovery requests from Plaintiff. Plaintiff objects, furthermore Defendants' appear to be mistaken as to how discovery works under the Federal Rules of Civil Procedure. It is not incumbent upon Plaintiff to fill out numerous documents because Defendants' don't agree to the outcome of their discovery requests. Plaintiff provided the documents and information three time's, twice directly to Defendants to there attorney's address, and once to the courts, through the U.S. Postal Service.

## LAW AND ARGUMENT

Parties may obtain discovery regarding any nonprivileged matter that is relevant to any parties claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery out weighs its likely benefit.

Parties are entitled to propound interrogatories and requests for production of documents in Discovery pursuant to Fed. R. Civ. P., the propounding party is not entitled to move to compel responses to these discovery requests if the responding party answered interrogatory submitted or produced documents as requested under Fed. R. Civ. P. Why have the Defendants' failed to send there discovery materials. when plaintiff requested any and all information.

Plaintiff answered every request, he had already sent the information to the Defendants', or objected to it. Plaintiff has sent proof to the Courts of (EXPEDITED LEGAL MAIL-RECEIPTS) showing he has done what was required.

Plaintiff is entitled to know what Defendants' have done, what injuries and damages they have caused, and what evidence they have. Plaintiff would like the Defendants' to stop harrassing with these frivolous requests.

Contary to Defendants' responses, Plaintiff has respectfully sent information or documents responsive to those discovery requests. Plaintiff has no idea what Defendants' are referring to when they claim to not have received information in response to Requests to Produce Interrogatory Questions. Nor has Plaintiff received any of the information and documents he requested in response to Discovery purposes.

As for the information Defendants' have in response to Requests for Production, Plaintiff can only surmise that defendants have some responsive information and/or documents within the hundreds of pages of intelligible writings he has properly sent. Plaintiff provided the documents and information directly to Defendants' through United States Postal Service.

RELIEF REQUESTED

WHEREFORE, for all these reasons, Plaintiff respectfully requests this Honorable Court enter an Order requiring the Defendants to provide All answers to their First Interrogatories and Requests for Production of Documents. To Order Defendants to send any and all Discovery materials to plaintiff. To pay any court costs, and attorney fee's in the filing of this motion.

Respectfully Submitted,

Benjamin A. Switek, PROSE,  
(without Prejudice U.C.C. 1-308/1-209)

BY: BENJAMIN A. SWITEK

Benjamin A. Switek

4269 West M-80

Kincheloe, Mich., 49784

Dated: November 18, 2022

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2022, I filed the foregoing paper with the Clerk of the Court using the U.S. Mail which will send notification of such filing to the attorneys of record, and I hereby certify that I have mailed by United States Postal Service the paper to the following participants: Timothy S. Ferrand (P39583), 19176 Hall Road, Suite 220, Clinton Township, Mich., 48038.

PROSE PLAINTIFF

BY: BENJAMIN A. SWITEK

"ALL RIGHTS RESERVED WITHOUT PREJUDICE"

PROOF OF SERVICE

On the date below, I delivered a copy of the foregoing pleading to: Timothy S. Ferrand, 19176 Hall Road, Suite 220, Clinton Township, Mich, 48038

By: X Regular First-Class Mail with Proper Postage

I declare that the statements above are true to the best of my information, knowledge, and belief.

Dated: November 18, 2022

Benjamin A. Switek, PPOSE  
(without Prejudice V.C.C. 1-308/1-207)

"ALL RIGHTS RESERVED WITHOUT PREJUDICE"

EXHIBIT A - (PG:10)

EXHIBIT B - (PG:11)

EXHIBIT C - (PG:12)

PROOF OF DEFENDANT'S  
GETTING THERE ANSWERS OF  
FIRST INTERROGATORIES  
AND REQUESTS SENT IN  
THE MAIL TO THERE  
ATTORNEY AND THE COURTS

## EXHIBIT A

MICHIGAN DEPARTMENT OF CORRECTIONS

CSJ-318

## DISBURSEMENT AUTHORIZATION (EXPEDITED LEGAL MAIL + PRISONER)

REV. 11/15 4835-3318

Please PRINT clearly, illegible and/or incomplete forms will not be processed.

Lock B-401 Institution UPF. - CHIPPENWA CORRECTIONAL  
 Prisoner Number #767054 Prisoner Name Benjamin Allen Switke  
 Legal Postage  Filing Fee \$  Certified Mail (Must Be a Court Ordered Requirement)  
 New Case  Case Number 21-12184 - (got in the mail today)  
8/30/2022  
 Pay To MAIL ROOM (34 PAGES SENT OUT)  
 Mailing Address 600 CHURCH STREET  
FLINT, MICH. 48502

**\*NOTE:** DEFENDANT's first interrogatories and requests for production of Documents to plaintiff.

Prisoner Signature Benjamin L. SwitkeReceived by J.C. Kell

Type or Print Name &amp; Title

Date & Time Submitted 8/31/22 0830Staff Signature J.C. Kell

Date &amp; Time Received by Authorizing Staff

Authorization Denied

 Does not meet definition of legal mail or court filing fee as identified in OP 05.03.118 Not hand delivered to authorizing staff member Does not include court order for handling as certified mail Prisoner refused to sign & date in staff member's presence New case or case number not on form Other (explain)

Denied by

Type or Print Name &amp; Title

Signature

Placed in Mail by J.C. Kell  
Type or Print Name & Title

Signature

Postage Amount \$ 240Date Placed in Outgoing Mail 8/31/22Postage \$

Total

Obligation \$ Court Filing Fee Denied Due to NSFFiling Fee \$

Check #

Date Copy Sent to Prisoner

Processed by

Type or Print Name &amp; Title

Signature

DISTRIBUTION:  Prisoner Accounting  Prisoner  Counselor's File  Prisoner

(P6:10 OF 12)



## EXHIBIT C

MICHIGAN DEPARTMENT OF CORRECTIONS

CSJ-318

## DISBURSEMENT AUTHORIZATION (EXPEDITED LEGAL MAIL - PRISONER)

REV. 11/15 4835-3318

Please PRINT clearly, illegible and/or incomplete forms will not be processed.

Lock

13-1101

Institution

U.M.F. - CHIPPENWA COUNTY

Prisoner Number

#767054

Prisoner Name

Type or Print Clearly

Benjamin Allen Smith

 Legal Postage Filing Fee Certified Mail (Must Be a Court Ordered Requirement) New Case Case Number

# 21-12184

Pay To

MAIL ROOM

(SENT 24 pages in stamped  
- envelope in mail)

Mailing Address

TIMOTHY S. FERK AND

19476 HAIL ROAD, SUITE 220

CLINTON, TOWNSHIP MICH. 48038

\*NOTE: SECOND INTERROGATORY RESPONSE SENT OUT

Prisoner Signature

Benjamin A. Smith

Date &amp; Time Submitted

Received by

P.C. VOLICK

Staff Signature

Type or Print Name &amp; Title

P.C. VOLICK

P.C. VOLICK

Date &amp; Time Received by Authorizing Staff

10/11/22

8:33

Authorization Denied

Does not meet definition of legal mail or court filing fee as identified in OP 05.03.118

Not hand delivered to authorizing staff member

Does not include court order for handling as certified mail

Prisoner refused to sign & date in staff member's presence

New case or case number not on form

Other (explain)

Denied by

Type or Print Name &amp; Title

Signature

Placed in Mail by

Type or Print Name &amp; Title

Signature

Postage Amount

\$ 11.11

Date Placed in Outgoing Mail

Postage

\$

Total

Obligation \$

 Court Filing Fee Denied Due to NSF

Filing Fee

\$

Check #

Date Copy Sent to Prisoner

Processed by

Type or Print Name &amp; Title

Signature

DISTRIBUTION:  Prisoner Accounting  Prisoner  Counselor's File  Prisoner

(PG: 12 OF 12)



TO: KINCHELOE CITY MI  
RE: BENJAMIN R. SMITH  
Name Benjamin R. Smith  
Number #267052  
Address 4269 W. M-80  
Address KINCHELOE, MICH. 49784  
Postmark not  
legible

RECEIVED  
NOV 28 2022  
U.S. DISTRICT COURT  
FLINT, MICHIGAN

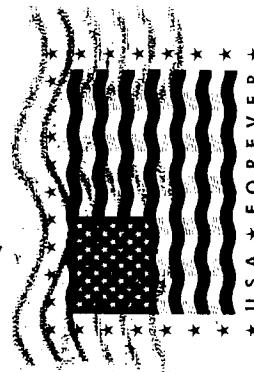
DEPUTY CLERK  
600 CHURCH ST.  
FLINT, MICH. 48502

4B1502-120059

(LEGAL MAIL)

(OFFICIAL BUSINESS)

Motion w/exhibits mailed  
in two envelopes.



Name Benjamin L. Smith  
Number #767054  
Address 4069 W. M-80  
Address KINCHELLE, MICH. 49784

TRAVERSE CITY MI 496  
Postmark not  
legible

RECEIVED  
NOV 28 2022

U.S. DISTRICT COURT  
FLINT, MICHIGAN

DEPUTY CLERK  
600 CHURCH ST.  
FLINT, MICH., 48502

48502-120099

(LEGAL MAIL)

(OFFICIAL BUSINESS)